

## **Summary of IDEM Steering Group Meeting WATER QUALITY RULES, TRIENNIAL REVIEW AND RELATED TOPICS**

### **Introduction:**

On Wednesday, June 25, 2003, IDEM staff met for the sixth time with a wide cross-section of stakeholders which make up the steering committee to IDEM for the triennial review of the state's water quality standards and related issues. These notes are intended to be a summary of the major points from the meeting held at IDEM's Shadeland offices.

The meeting was called to order by Tim Method. Those in attendance for all or part of the meeting included: Bill Beranek, Bowden Quinn, Eric Fry, John Fekete, Neil Parke and Pam Fisher.

In addition, the following IDEM staff members were present for all or part of the meeting: David Kallander, Dennis Clark, John Elliott, Kiran Verma, Larry Wu, Lonnie Brumfield, Mary Ellen Gray, Megan Wallace and Steve Roush.

### **Summary:**

The workgroup members were asked if they had any changes to the 3/19/03 minutes (a typographical error was corrected). The minutes will be posted to the IDEM website. Tim Method noted that copies of the four Triennial first notices were available. Antidegradation's comment period closed April 29<sup>th</sup> and copies of the five comment letters were provided to the workgroup members. (The comment periods for Mercury, *E. coli* and Fast Track close July 30, 2003.)

#### **1. Reports.**

- A. **Mercury.** John Fekete called to everyone's attention that the mercury workplan posted to the website was an active document being updated after every meeting. He reported there were fourteen workgroup accomplishments, that included: finalized workplan; developed a relevant bibliography; compared activities with other states (i.e., Illinois, Ohio, Minnesota and Wisconsin); gathering data performed using Method 1631 (Eric Fry is helping with maintaining the table of data and a map showing the sampling sites); U.S. EPA studies of POTW effluent; first notice (decided to call it "streamlined mercury variance"); Robin Garibay has provided data on costs of mercury removal; reviewing mercury minimization procedures (things we can do to get mercury out of the system); regarding the ability of the WPCB to develop regulations on air emissions, it was made clear by IDEM legal staff that the WPCB is limited to water pollution activities; regarding administratively extended permits, in discussions with EPA (Dave Pfeifer and Morris Beaton), it was decided that its effect would also extend any existing variance; expecting biological evaluation of Michigan Rule from Region 5 (because in order to

receive a variance, need the approval of FWS); Steve Roush will provide information on pretreatment (includes papers supplied by Robin Garibay); and Larry Wu will discuss public participation. The next meeting is July 9, 2003 from 9:30 to 11:30. Discussion participants included Bill Beranek, Eric Fry, Steve Roush, Tim Method, Dennis Clark, and John Fekete. They addressed the following: are source waters being addressed? (yes); keeping track of the different forms of mercury; the eventual need to decide if the variance is granted as part of the permit or as a separate document; and, developing a number for the variance.

- B. **Antidegradation/OSRW.** Bowden Quinn reported that the workgroup met for the ninth time on June 20<sup>th</sup>. Five comment letters were received during the first notice period. IDEM has distilled eighty-three comments and is working on responding to them. The workgroup is on two tracks: broad issues and the 1999 draft second notice. For the broad issues, trying to get a handle on Tier I, Tier II, OSRW and ONRW. Discussion on 6/20 was tabled because Charlotte Read could not be there, but we still discussed it. Denny Clark came up with a helpful diagram. For the specifics, the workgroup will not talk about Tier I and ONRW. Will focus on Tier II issues. Going through the 1999 draft making slow progress. Going through the underbrush getting to “de minimis”. Denny mentioned that some wanted to look at another way of approaching antidegradation other than pollutant by pollutant; one, perhaps where antidegradation would not be required for all waters, but water quality criteria would still have to be met. Bill stated that there were some waters for which it may make sense not to do an antidegradation demonstration. Dave Kallander mentioned that Tom Simon was concerned about protecting the high end waters. Bill added that some things Tom Simon is seeking for antidegradation are covered by WQBELs.
- C. ***E. coli.*** Mary Ellen Gray reported that Ron Turco was unable to attend today’s meeting. The workgroup has focused on “full body contact” and looking at what other states are doing on primary and secondary contact. Colorado is using a risk-based approach with primary contact. The workgroup agreed to move forward on that approach and is looking at what other states are doing with that approach. Denny mentioned that the EPA has recently published a summary of all of the state standards. For primary contact, we are looking to bring our language in line with other states. Need to develop our definitions for primary and secondary contact. For wet weather use designations, looking how to calculate compliance with that standard (e.g., looking to allow exceedances of single sample values 10% of the time). Bill asked what would be the duration of the 10%?, e.g., 30 samples taken over one month? Denny replied that the 10% exceedance could apply to all samples taken over the recreational season, all taken in one month, etc. (needs to be discussed further). The geometric mean is not limited to 5 samples, can do a geometric mean over

all data taken. Bill stated we would need to establish the protocol. During additional discussion, a concern was raised that if a large number of streams were to be identified as being impaired, would that distract from streams on the 303(d) list that really need attention? Neil Parke said, for the technology-based limits, that the background documents seemed inconsistent. Denny replied that we need to discuss technology based limits further because if you do adequate disinfection, the limit should be zero.

- D. **Fast Track.** Neil Parke reported that the workgroup met June 24<sup>th</sup>. The next meeting will be July 24<sup>th</sup> at IGCN unless the meeting can be moved to Shadeland. One comment letter has been received so far. The workgroup has begun walking through a 107 page mock draft rule. Bill Beranek added that he expects two issues to be questioned by the regulated community and one or two issues to be questioned by the environmental community.
2. Suggestions for changes to the workgroups. Tim Method asked the steering committee if the workgroups were on the right track. Bill Beranek said that the pace of Mercury is fine; the pace of Fast Track is right; for Antidegradation, we're still clearing brush. We haven't gotten to the WQAG issues yet. We'll get there. For *E. coli*, it sounds like EPA is shifting and so are we and that is wise. For Fast Track, those additional issues that can be moved onto that list needs to be carefully coordinated by the steering committee. Regarding future rulemakings, Tim said he was concerned with the time of external folks because we're having key folks already participating. Maybe we can talk about this in September. Bill was also concerned with future rulemakings. He suggested a quick summary of Fast Track comments by September's steering committee meeting. If we know a second train is leaving the station we will have a better idea how to proceed now. Tim said IDEM would summarize comments on Fast Track in August, review the list of other triennial review issues and report to the steering committee in September.
3. Public Participation.
- A. Tim Method introduced the draft public participation plan as a means of obtaining public comment. There are pros and cons for each. Some questions are: when do you get the input?; are there resources we haven't tapped into?; is this document a plan if we do decide to have public input?
- B. Academic approach. Is it a good idea? Neil Parke asked if it was the plan to send a letter to all the chancellors. Tim Method replied that was why he termed it a fishing expedition. Bill Beranek said, in general, he was in favor of getting help. It needs to be more focused. Professors will want meetings when there is no class to teach and will want to hit the ground running (he reminded the group that on the WQAG, the professor left after two meetings). Bill asked if we were looking for help or to inform

people? Which ever you're looking for, you can get. Eric Fry said that if the agency were looking for academic input, why not approach the USGS and ISGS? Tim added FWS. Bill said that if goal was to contact Indiana schools, they should all be contacted. Bowden Quinn agreed that it would be highly optimistic to expect people to come and help. He mentioned the Lilly Endowment as a possible source of grants. The list seemed like the right people. As a next step, IDEM will discuss a broader solicitation of academic institution involvement in IDEM related activities within IDEM.

- C. On the issue of getting out there more, if we do schedule sessions, how do we coordinate them? Bill Beranek suggested that if a workgroup was ready for public meetings, it could propose it to the steering committee. It would be better to have it all at one time. Bowden Quinn disagreed, preferring the steering committee not coordinate the meetings. He felt each workgroup should work out its own schedule. Antidegradation is only talking about two meetings in the north and south. Don't see a combined meeting as being logistically efficient. Will be appealing to different groups. John Fekete agreed with Bowden, saying that in a combined meeting, for example, it would be extremely difficult to switch from antidegradation to mercury. Bill added the assumption was that people will be reasonably sophisticated. The presentation would basically be what is happening. John asked what was the purpose. Tim replied that in seeking concerns and allowing input, it was difficult to get people to attend if the meeting were not targeted enough. This is easier to do when you're at the right point to get people to attend. Need to factor in the right time to go out. John asked if the meeting would be background, to let people know what was going on. Tim agreed saying the open question is, is there value to have an open session as some point?, or could we do this through the WPCB? Bill suggested a simple poster at IDEM's booth at the State Fair. Do it in a way you don't have to answer questions. Tim said we have another year to work out scheduling if meetings of the WPCB were to be held outside Indianapolis. Could bring issues of interest to particular parts of the state. Bowden added he thought the WPCB was a good way to address general concerns. Tom Simon's participation in antidegradation has been a real eye opener. The WPCB is the place to be. Eric Fry said, if you're looking for input from citizens of Indiana, he didn't see having meetings in Bloomington or Lafayette, noting that most of the people in Bloomington weren't from Indiana. He suggested Jasper instead. Denny Clark commented that academic people really wanted to get involved with the technical parts. Ron Turco is the only professor who has been a participant. Don't think they really want to be involved. John added that academics were several years behind in policy issues. They need to get involved with what's happening in the real world.

- D. Summary. Tim Method summarized the discussion that the steering committee needs to work with the workgroups to identify the right time; need to work with the WPCB to see if they are interested in the broader issues; at the September meeting, have a discussion on non-Fast Track issues and how best to tackle them; and to go through the four workgroups. Bill Beranek suggested adding 20 minutes to the meeting to discuss if IDEM is getting too detailed (e.g., the first notice responses were like second notice). The process will really get bogged down. Bill suggested, for first notice, that we acknowledge receipt of ideas and not respond one way or the other. Tim said the intent of the new changes was not to feel compelled to go beyond what we know at this time. Bill added we don't need any reasons to go slower.
4. The steering committee next meeting was scheduled for Wednesday, September 24, 2003 from 10:00am to Noon. **Note: It was agreed to change the time to 1:00pm to 3:00pm.**

The meeting of the steering committee will be Wednesday, September 24, 2003 from 1:00pm to 3:00pm, at the Indiana Department of Environmental Management, 2525 North Shadeland Avenue, Conference Room C, Indianapolis, Indiana.